IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 26.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.31230 of 2019

Mypreferred Transformation
and Hospitality Private Limited,
Rep by its Authorised Signatory
having its registered office at
9th Floor, SpazePalazo, Southern
Peripheral Road, Sector 69, Gurgaon,
Haryana 122 001. ...Petitioner

Vs

1.The District Collector, Coimbatore,
State Bank Road, Beside Police Office,
Gopalapuram, Coimbatore,
Tamil Nadu 641 018.

2.The Commissioner of Police,
Coimbatore City, Upplipalayam,
Tamil Nadu 641 018.

3.The Commissioner Corporation of Coimbatore,
Corporation Office Coimbatore,
Raja Street, Town Hall, Tamil Nadu 641 001.

4.The Tahsildar,
Coimbatore South, Huzur Road,
Opp. Court, Gopalapuram,
Coimbatore, Tamil Nadu 641 018.

5.Oya Hotels and Homes Private Limited,
(Formerly known as Alcott Town Planners
Private Limited)
having its registered office at
Ground Floor-001, Mauryansh Elanza,
Shyamal Cross Road,
Nr. Parekh Hospital,
Ahmedabad, Gujarat 380 015. ...Respondents

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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 4 herein to de-seal the petitioner's premises at 71-72, Hindustan Avenue, Nava India Road, Avinashi Road, Coimbatore 641 028, Tamil Nadu and further declare that the action taken and sealing thereof by the respondents herein is illegal and bad in law.

For Petitioner : Mr.K.Chandrasekaran

For Respondents : Mr.C.Iyyapparaj for R1 to R4
Additional Public Prosecutor

ORDER

The petitioner herein is an assignee of the Lease Deed with the fifth respondent and he is running Hire Service Apartments at 71-72, Hindustan Avenue, Nava India Road, Avinashi Road, Coimbatore 641 028, Tamil Nadu.

2. The case of the petitioner is that on 25.06.2019, at 11.00 a.m., a search was conducted in the premises by a team from the office of the Tahsildar, Peelamedu Police Station. During the course of such search, it is stated that certain liquor bottles were found inside one of the rooms occupied by the guests and in one room two adults, male and female, who were not married with each other were staying. The premises came to be sealed by the Team without any written order which has prompted the petitioner to file the present Writ Petition.

3. According to the learned counsel for the petitioner, there was no justification on the part of the respondents in not giving them an opportunity to put forth their objections and sealing of the premises without any order being served on them is in a violation of the Principles of natural justice. The learned counsel would submit that such an action has been taken, based on the viral news spread on the social media.

4.The learned Additional Public Prosecutor appearing for the respondents 1 to 4 submitted that the Tahsildar, Coimbatore (South) had informed the Inspector of Police, Peelamedu Police Station that the petitioner's premises had not obtained Form 'D' and without details of the guests in the Booking Registers, are permitting illegal activities by the guests. In view of the objections from the neighboring womenfolk, action has been requested to be taken against the petitioner.

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5. The various reports both in social, as well as print media, are produced before this Court, predominantly indicates that the petitioner had permitted unmarried couples to stay in the hotel rooms, which has been termed as immoral.

6.Apparently, in view of the viral news spread in the social and other media, the extreme step of sealing the premises has been taken. When a specific question was put to the respondents as to what could be the illegality in permitting unmarried couples to stay in the hotel rooms, the respondents had no answer to the same. Apparently, there are no laws or regulations forbearing unmarried persons of opposite sex to occupy hotel rooms, as guests. While live-in-relationship of two adults is not deemed to be an offence, terming the occupation of hotel room by an unmarried couple, will not attract a criminal offence. While that being so, the extreme step of sealing the premises on the ground that an unmarried couple were occupying the premises, is totally illegal in the absence of any law prohibiting the same.

7. It is also stated that certain liquor bottles were found in the room occupied by the guests and since the premises does not possess the license to serve or sell liquor inside, the action of sealing was initiated. The stand taken by the petitioner is that they had not served or sold liquors in the premises and that if at all there was any liquor bottles in the rooms of the guests, such bottles could have been brought by the guests themselves, to which, the petitioner cannot have a check over the same.

8. If the petitioner had not sold or served any liquor to the guests, who were occupying their respective rooms and the guests had consumed the liquor brought by themselves, I am unable to comprehend as to how the same could be considered as impermissible. As a matter of fact, the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, permits any individual person to possess various types of liquor in specified quantities. Rule (2) of the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996 as amended vide G.O.Ms.No.14, Home, Prohibition and Excise (Government VI) dated 09.06.2017, prohibits possession of the following liquors for personal consumption, over and above the quantity extracted hereunder:

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S.No.	Liquor (1)	Quantity (in Litres) (2)
1	Indian made Foreign Spirits	4.5
2	Foreign Liquor	4.5
3	Beer	7.8
4	Wine	9.0

The above restriction thereby entitles a person to hold possession of the aforesaid four categories of liquors to the quantities mention therein, within the State of Tamil Nadu. In other words, any person can possess 4.5 Litres of IMFS; 4.5 Litres for Foreign liquor; 7.8 Litres of Beer; 9 Litres of Wine, at a given point of time, within the State. As such, the consumption of liquor by the guests in the petitioner premises cannot also be termed as illegal.

9. Above all, the entire episode of sealing the premises is in total violation of the principles of natural justice. It is not in dispute that the petitioner was not put on notice prior to the sealing of the premises. No explanation was called for from the petitioner with regard to the contemplated action of sealing the premises. Particularly, in the background of the present case that the alleged immoral activities in the club may not be an offence, it would have been just and proper for the respondents called for explanation, before taking any coercive steps against the petitioner.

10. The learned Additional Public Prosecutor also submitted that the premises did not possess building license in Form 'D' of the Revenue Department and the Booking Registers were not properly maintained. Assuming that such lacuna were discovered by the authorities, these can only termed as infirmities, which required to be addressed by calling for explanation from the petitioner and thereafter take further course of action, thereby adhering to the principles of natural justice. Since the entire action of sealing the petitioner's hotel without following the principles of natural justice is illegal, this Court would justified in invoking its extraordinary powers under Article 226 of the Constitution of India.

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11. For all the aforesaid reasons, the Writ Petition stands allowed. Consequently, the first respondent herein is directed to de-seal the petitioner's premises at 71-72, Hindustan Avenue, Nava India Road, Avinashi Road, Coimbatore 641 028,

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Tamil Nadu forthwith, in any event, within a period of two days from the date of receipt of copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vkr

1.The District Collector, Coimbatore,
State Bank Road, Beside Police Office,
Gopalapuram, Coimbatore,
Tamil Nadu 641 018.

2.The Commissioner of Police,
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+1cc to Mr.K.Chandrasekaran, Advocate sr.98321

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